



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 01-489)

In re Application of: Haensler et al. }
Serial No.: 08/836,576 } Before the Examiner:
Filed: September 9, 1997 } B. Brumback
For: Adjuvant for Vaccine } Group Art Unit: 1643
Composition }

TRANSMITTAL LETTER

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MAR 29 2002

OFFICE OF PETITIONS

Box DAC
Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In regard to the above identified application,

1. We are transmitting herewith the attached:
 - a) Petition to Revive; and
 - b) return receipt postcard.
2. With respect to fees:
 - a) A check in the amount of \$640.00.
 - b) Please charge any underpayment or credit any overpayment our Deposit Account, No. 13-2490.
3. CERTIFICATE OF MAILING UNDER 37 CFR § 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described in paragraph 1, are being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, Washington, D.C. 20231 on March 18, 2002.

Respectfully submitted,

Michael S. Greenfield
Registration No. 3,142

Date: March 18, 2002



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Dear Sir:

Pursuant to the provisions of 37 C.F.R. § 1.137(b), the applicants respectfully petition the Commissioner to revive this application, which went abandoned for failure to file a response to the Office Action mailed October 25, 2000, before the April 25, 2001, deadline.

On April 24, 2001, the undersigned file a continuing prosecution application (CPA) without a response to the October 25, 2000, Office Action. Because the undersigned did not have a complete copy of the application file history, he did not know that the firm previously responsible for filing of this application had filed a CPA on August 31, 2000. The filing of the CPA brought this application under the new Rules, which replaced CPA practice with RCE practice. Accordingly, the CPA filed April 24, 2001, was converted into an RCE, which required inclusion of a response to the pending Office Action.

Because they failed to include a response with their April 24, 2001, CPA filing, a "Notice of Improper Request for Continued Examination (RCE)" was issued on May 4, 2001. The undersigned contacted the PTO to investigate the situation and was informed for the first time on May 17, 2001, of the August 31, 2000, CPA filing and the reasoning for the conversion of the April 24, 2001, CPA into an RCE. The undersigned was informed that because of the recent change Rules, the Office was grant-

CERTIFICATE OF MAILING (37 C.F.R. 1.8a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the: Commissioner for Patents, Washington D.C. 20231, on March 18, 2002.

Date: March 18, 2002

Michael S. Greenfield

ing a 2-month grace period in such situations for a response to be filed. The undersigned also conferred with Examiner Brumback on June 6, 2001, and informed her of the situation and indicated the applicants' intent to file an amendment. This conversation is embodied in the Interview Summary mailed June 13, 2001. Thus, the applicants were under the impression that their June 21, 2001, response filing would be timely, and no indications to the contrary were received from the PTO (particularly during the June 6, 2001, conversation with Examiner Brumback).

On August 15, 2001, the PTO mailed a Notice of Abandonment, asserting that the June 21, 2001, filing was beyond the 6 month statutory deadline for responding to the October 25, 2000, Office Action. This Notice was mailed to the Sterne Kessler Goldstein & Fox firm despite the fact that the attorneys of record at that firm had instructed the PTO (by way of an Associate Power of Attorney filed March 8, 2001) to send papers to Aventis Pasteur. Due to an apparent clerical error, the Notice was not immediately forwarded, and McDonnell Boehnen Hulbert & Berghoff did not receive the Notice until February 5, 2002.

The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. The petition fee under 37 C.F.R. § 1.17(m) accompanies this petition. Please use the Preliminary Amendment filed June 21, 2001, as the reply to the Office Action mailed October 25, 2000.

Respectfully submitted,



Michael S. Greenfield
Registration No. 37,142

Date: March 18, 2002

Telephone: 312-913-0001
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McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive, 32nd Floor
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